



STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY AND	:	
MUNICIPAL EMPLOYEES, COUNCIL #68, AFL-CIO	:	
	:	
Petitioner	:	
	:	CASE NO. A-0474
and	:	
	:	
TOWN OF ALTON, NEW HAMPSHIRE	:	DECISION NO. 81-13
HIGHWAY & SANITARY LANDFILL DEPARTMENTS	:	
	:	

APPEARANCES

Representing AFSCME, AFL-CIO, Council #68:

Joyce C. Anderson, Executive Director
 James Ford, Representative
 Clark M. Stoddard, Employee of the Town of Alton
 Jeffrey A. Thoroughgood, " " " " " "
 Alan W. Thoroughgood, " " " " " "
 Richard E. Helie, " " " " " "

Representing the Town of Alton:

Daniel Crean, Esquire, Counsel
 A. Ray Hunt, Selectman

BACKGROUND

AFSCME, Council #68, on March 25, 1981 filed a petition for certification of a bargaining unit in the Town of Alton consisting of employees in the Highway/Sanitary Landfill Departments and including laborers, truck drivers, mechanics, light equipment operators and heavy equipment operators for a unit of approximately thirteen (13) employees.

The Town of Alton by its Counsel, Attorney Daniel Crean, took exception to the petition stating the unit was inappropriate in that the Town did not have,

- (a) a "Highway/Sanitary Landfill Department", rather the two functions were carried out separately and independently as departments with separate lines of supervision;
- (b) employees of these two departments work independently of each other and out of separate locations;
- (c) the employees in the highway department number eight (8) and employees in the landfill department number two (2), neither of these departments meeting the minimum requirement of ten.

- (d) the employees from the two departments lacked the community of interest necessary under the requirements of 273-A and therefore formation of such a bargaining unit would be improper under RSA 273-A.

Hearing on this matter was conducted by the Public Employee Labor Relations Board on April 30, 1981. Testimony and evidence was presented by all parties of interest.

The question of proper contact and notice to the Town by the Council #68 prior to the filing of the petition was raised by Counsel for the Town of Alton.

Testimony by representative for the Union, James Ford, indicated that the cover letter of March 24, 1981 sent to Robert A. Reinholz, Chairman of the Board of Selectmen, requested a response to the petition and an opportunity to meet with the town representatives at their convenience. The Union received no response to their request.

Three witnesses were presented by AFSCME in support of the community of interest aspect of the employees and testifying as to the specific duties of their employment with the town.

One of the truck drivers testified that he was an employee of the highway department and that his hours were spent working either at the highway department or at the landfill; his wages remained the same as well as his benefits; and his supervisor was the Road Agent, although the Engineer was in charge at the landfill operation.

Testimony was also presented that the employees were shifted from highway work to landfill work and to cemetery work all for the town and occasionally for the water department. Further testimony indicated that the landfill operation was temporary and had been in existence for only one year.

On behalf of the town, a member of the Board of Selectmen testified that separate budgets were prepared and approved by the town for four separate departments; i.e., highway, landfill, cemetery and water and that the highway department furnished assistance when requested and the labor so furnished charged to each department budget.

Counsel for the town testified that it had not been determined if the landfill operation would be permanent and a possibility of subcontracting the operation was under investigation.

Another employee of the town testified that he was on municipal funding in the highway department since June 7, 1980 but was laid off in March, 1981. During his employment, his check was signed by the selectmen and he worked for the highway, cemetery and parks departments and had worked 40 hours per week until laid off.

FINDINGS

--Both parties, AFSCME and the town of Alton were in error initially; i.e., the local, AFSCME, Council #68, for not making attempts to reach an agreement with the representatives for the town on a proposed unit, and the town for not responding to the local's request to meet prior to a hearing by PELRB.

-- A community of interest does exist among the employees of the two departments as evidenced by testimony presented at the hearing.

-- All employees are paid by the town of Alton; checks are co-signed by the selectman and the treasurer of the town.

-- Application of the fringe benefits varies depending upon the funding for the positions.

-- Employees of the highway and landfill departments meet the requirement for the formation of a bargaining unit.

DECISION AND ORDER

After reviewing the testimony at hearing on April 30, 1981, the Board hereby creates a bargaining unit in the town of Alton composed of:

laborers, truck drivers, mechanics, light equipment and heavy equipment operators in the highway and landfill departments.

Excluded from the unit as supervisory, the road agent, town agent and all elected officials.


EDWARD J. HASELTINE, Chairman

Signed this 28th day of May, 1981

By unanimous vote. Chairman Haseltine presiding; present and voting, members Hilliard and Osman. Also present, Executive Director LeBrun